



MEMO

To: Clients' Security Fund Applicant

Re: State Bar of Georgia Clients' Security Fund

The State Bar of Georgia Clients' Security Fund is a public service of the legal profession in Georgia. The purpose of the Clients' Security Fund is to repay clients who have lost money due to a lawyer's dishonest conduct.

Following please find an application package to the State Bar of Georgia Clients' Security Fund, along with other informational material. Please be aware that there are certain limitations on the ability of the Fund to pay a claim. Disciplinary action must be taken against the attorney who caused the loss resulting in the attorney's disbarment or indefinite suspension, or the voluntary surrender of his or her license. In addition, the loss must be the result of the attorney's dishonest conduct. Dishonesty is defined generally by the rules governing the Fund as a theft of money or other things of value. The Fund does not reimburse losses that are the result of malpractice on the part of the attorney. Also, applicants may be required to pursue all available civil remedies to collect the loss from the attorney.

Clients' Security Fund applications shall be filed no later than 2 years after a final disciplinary action is rendered against the attorney. Applicants must provide adequate information and documentation to support the claims. Examples of such documentation are copies of any written retainer agreement or contract of representation, copies of the front and back of canceled checks or money orders, and copies of letters or other papers showing that the attorney received the money or property. The completed application and supporting documentation should be returned to this office at the address below, directed to the attention of the Clients' Security Fund.

The Trustees of the Clients' Security Fund carefully review and consider all applications; however, there are no assurances that reimbursement will be made from the Fund.

If you have any questions regarding the Clients' Security Fund and its procedures, please contact Betty Derrickson at (404) 527-8771 or bettyd@gabar.org.

CAN THE CLIENTS' SECURITY FUND HELP YOU?

What is the Clients' Security Fund?

The Clients' Security Fund is a public service of the legal profession in Georgia. In 1968, the State Bar of Georgia created the fund in order to repay clients who lose money due to a lawyer's dishonest conduct. Every lawyer in Georgia contributes to this fund.

Does the Fund refund attorney's fees?

The Fund will reimburse fees only in limited cases. If the lawyer did no work, fees may be covered by the fund. Fees are not reimbursable simply because you are dissatisfied with the services, or because the work was not completed.

For example, if the lawyer consulted with you, appeared in court on your behalf, prepared correspondence, or reviewed and filed documents for you, your fees may not be reimbursable under the rules.

What kinds of losses are covered?

The fund can reimburse you for thefts by a lawyer. It covers money or property lost because a lawyer was dishonest (not because the lawyer acted incompetently or failed to take a certain action). To qualify for the fund, you must be able to show that the money or property came into the lawyer's hands. Business or investment relationships between the client and lawyer are not covered.

The reimbursable loss is limited to the actual amount taken by the lawyer. The fund does not pay interest nor does it pay for any damages or expenses caused by a lawyer taking client's funds. For example, if a lawyer takes money that should have been used to prevent a foreclosure on your house, the fund may be able to repay you for all or some of the lost money but not the lost house.

Before your claim can be paid, all of the circumstances of your loss are investigated. Payments from the fund are a matter of grace and not of right. Your claim may be denied or the amount reimbursed may be only a portion of the amount lost.

Who can apply?

Almost anyone who has lost money due to a lawyer's dishonesty can apply for reimbursement. However, if you are the spouse or other close relative of the lawyer in question, the lawyer's business partner, employer or employee, or a business controlled by the lawyer, the fund will not pay your claim. Also, the fund will not reimburse losses suffered by corporations or partnerships.

Who decides whether an application will be paid?

The Clients' Security Fund Board of Trustees decides whether you qualify for reimbursement from the fund; and, if so, whether part or your entire claim will be paid. The Board is made up of seven volunteers--six lawyers and one non-lawyer.

Your cooperation in providing needed information and documentation is all that is required of you. Claimants are not asked to appear before the Clients' Security Fund Board of Trustees.

What other steps should I take?

Since the lawyer who caused your loss must be disbarred before your claim can be considered, you may be asked to file a disciplinary grievance against the lawyer, if you have not already done so. For a grievance form, please write or call:

**THE OFFICE OF GENERAL COUNSEL
STATE BAR OF GEORGIA
104 MARIETTA STREET NE
SUITE 100
ATLANTA, GEORGIA 30303
(404) 527-8720**

Also, if it is apparent there may be another way to recover your money or property, you could be required to pursue the alternate source before the Clients' Security Fund considers your claim. Such sources might be bonding or insurance companies, banks or other entities that have honored a forged check or draft, or the partner(s) of the accused attorney. Since the law does not allow the State Bar to give you legal advice, you may want to consult a new lawyer about these matters. If you do not know a lawyer who can help, please call a Lawyer Referral Service in your area.

How can I apply?

For an application form, write or call:

**THE CLIENTS' SECURITY FUND
STATE BAR OF GEORGIA
104 MARIETTA STREET NW
SUITE 100
ATLANTA, GEORGIA 30303
(404) 527-8720
www.gabar.org**

You do not need a lawyer to apply but you may hire one if you wish.



State Bar
of Georgia

STATE BAR OF GEORGIA

CAN

THE

CLIENTS'

SECURITY

FUND

HELP

YOU?



State Bar of Georgia

CLIENTS' SECURITY FUND NOTICE TO APPLICANTS

Enclosed please find an application to the State Bar of Georgia Clients' Security Fund along with other informational materials about the Fund.

Please read the application and accompanying documents carefully. You should be aware that there are certain limitations on the ability of the Fund to pay a claim. First, disciplinary action must be taken against the attorney who caused the loss resulting in the attorney's disbarment or suspension. Secondly, the loss must be the result of the dishonest conduct of the attorney. Dishonesty is defined generally by the rules of procedure as a theft of funds. The Fund does not reimburse losses which are the result of malpractice on the part of the attorney.

The claim should be filed with the Clients' Security Fund no later than two years after the Supreme Court of Georgia renders a final disciplinary action against the attorney. Also, the applicant shall be required to exhaust all civil remedies available to collect the loss from the attorney or show in their application why pursuit of a civil claim is not feasible or practical. Finally, the applicant must provide information and documentation to support the claim. Examples of documentation needed are such things as a copy of any written retainer agreement, copies of cancelled checks (front and back), and copies of letters or other papers showing that the attorney received the money or property. It is very important that you attach this documentation to your application. This will expedite the processing of your application.

Your completed application and the documentation mentioned above should be returned to this office directed to the Clients' Security Fund. While your application will be given careful consideration by the Trustees of the Fund, there is no assurance that reimbursement will be made from the Fund.

Should you have any questions concerning the procedures of the Clients' Security Fund, you may call (404) 527-8720.



State Bar of Georgia

PART X CLIENTS' SECURITY FUND

PREAMBLE

The purpose of the Clients' Security Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by providing monetary relief to persons who suffer reimbursable losses as a result of the dishonest conduct of members of the State Bar of Georgia.

Rule 10-101. Fund Established.

There is established a separate fund of the State Bar of Georgia designated "Clients' Security Fund of the State Bar of Georgia." There is also established a Clients' Security Fund Board of Trustees which shall receive, hold, manage and disburse from the Fund such monies as may from time to time be appropriated to it by the State Bar of Georgia, or received through voluntary contributions, income from investments or other funding sources.

Rule 10-102. Definitions.

For this Rule, the terms shall have the following meanings:

- (a) "Board" means the Clients' Security Fund Board of Trustees.
- (b) "Claimant" means one who files a claim for reimbursement with the Board of Trustees.
- (c) "Fund" means the Clients' Security Fund of the State Bar of Georgia.
- (d) "Lawyer" or "attorney" means one who, at the time of the commencement of his or her handling of the matter in which the loss arose, was a member of the State Bar of Georgia.

Rule 10-103. Funding.

(a) The State Bar of Georgia shall provide funding for the payment of claims and the costs of administering the Fund. Funding shall be through an annual assessment of \$15 per dues paying lawyer. The Trustees shall not spend more than received through the annual assessment in a single year. The Board of Governors may from time to time adjust the Fund's maximum annual assessment to advance the purposes of the Fund or to preserve the fiscal integrity of the Fund.

(b) All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.

- (c) Only the Board of Trustees may authorize the payment of money from the Fund.

Rule 10-104. Board of Trustees.

(a) The Board of Trustees shall consist of six lawyers and one non-lawyer appointed by the President of the State Bar of Georgia. The initial appointments to the Board shall be for such terms as to result in the staggered expiration of the terms of all members of the Board. Thereafter, the appointments shall be for a term of three years.

(b) Vacancies shall be filled by appointment of the President of the State Bar of Georgia for any unexpired term.

(c) The Board members shall select a chairperson who is a member in good standing of the State Bar of Georgia and such other officers as the Board members deem appropriate.

(d) A quorum for the transaction of business at any meeting of the Board shall consist of three current members in attendance.

(e) The Board shall adopt a regulation to terminate Trustees who fail to regularly attend meetings and may adopt additional regulations for the administration of the Fund that are not otherwise inconsistent with these Rules.

Rule 10-105. Investigations.

(a) The Board shall review every claim, and in its discretion, will investigate to the extent the Board deems appropriate those claims that appear to meet the requirements for payment as described in these Rules.

(b) The Board may approve for payment from the Fund such claims as are found, after investigation, to be meritorious and in accordance with these Rules.

- (c) Applications for relief shall be submitted on forms prescribed by the Board.

Rule 10-106. Eligible Claims.

(a) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out of and because of a lawyer-client relationship, or a fiduciary relationship, between the lawyer and the claimant.

(b) As used in these Rules, “dishonest conduct” means wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value.

(c) There must be a final disposition resulting in indefinite suspension, disbarment, or voluntary surrender of license.

(d) The claim shall be filed no later than two years after the date of final disciplinary action by the Supreme Court of Georgia. In the event disciplinary action cannot be prosecuted due to the fact that the attorney is either deceased or cannot be located, the claim shall be filed no later than five years after the dishonest conduct was first discovered by the applicant; provided, however, the claim shall be filed no later than seven years after the dishonest conduct occurred.

(e) Except as provided by part (f) of this Rule, the following losses shall not be reimbursable:

(1) losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses;

(2) losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;

(3) losses incurred by any financial institution, which are recoverable under a “banker’s blanket bond” or similar commonly available insurance or surety contract;

(4) losses incurred by any business entity controlled by the lawyer, or any person or entity described in part (e) (1) hereof;

(5) losses incurred by any governmental entity or agency;

(6) losses incurred by corporations or partnerships, including general or limited.

(f) In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, recognize a claim which otherwise would be excluded under these Rules in order to achieve the purpose of the Fund.

(g) In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Board, in its discretion, may deny the claim.

(h) The Board shall require the applicant to exhaust his or her civil remedies unless the Board determines that the pursuit of the civil claim is not feasible or practical.

Rule 10-107. Payments.

(a) The Board may exercise its discretion to grant monetary relief as a matter of grace and not of right if it determines that a claimant has suffered a reimbursable loss under these Rules and the circumstances warrant relief. Before granting such a claim, the Board must take into consideration the resources of the Fund and the priority to be assigned to a claimant’s application.

(b) Such monetary relief shall be in an amount as the Board may determine and shall be payable in a manner and upon conditions and terms as the Board shall prescribe.

(c) This process is designed so that a claimant should not require legal counsel to assist with a claim. However, if a claimant desires legal counsel, no lawyer may accept any payment for assisting a claimant with prosecuting a claim under these Rules unless such payment has been approved by the Board.

Rule 10-108. Right to Payment and Right of Appeal.

(a) No person shall have any legal right to payment or reimbursement from the Fund whether as a claimant, third-party beneficiary, or otherwise. Any amount paid to a claimant by the Fund may be appealed to the Board by the claimant.

(b) The claimant may request reconsideration within 30 days of notice of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Board is final, and there is no further right of reconsideration or appeal.

Rule 10-109. Restitution and Subrogation.

(a) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution; the Board may bring such action as it deems advisable to enforce such obligation.

(b) As a condition of reimbursement, a claimant shall be required to provide the Fund with a pro tanto release and transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns, and the claimant's rights against any third party or entity who may be liable for the claimant's loss.

(c) No petition for reinstatement to practice law in the state of Georgia shall be granted until the petitioner has made restitution to the Clients' Security Fund for all amounts paid by the Fund as a result of the petitioner's conduct.

Rule 10-110. Immunity.

The Supreme Court of Georgia recognizes the actions of the State Bar of Georgia and this program to be within the Court's judicial and regulatory functions. As such, the State Bar of Georgia, its employees, the Office of the General Counsel, its staff liaison to the program, the Clients' Security Fund Board of Trustees, and any outside counsel advising and assisting the program shall be entitled to that immunity customarily afforded to persons performing such functions.

Rule 10-111. Confidentiality.

(a) Claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant, except as provided below. After payment of the reimbursement, the Board may publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and the address of the claimant shall not be publicized by the Board unless specific permission has been granted by the claimant.

(b) This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Board shall authorize, or the release of statistical information which does not disclose the identity of the lawyer or the parties, or use of such information as necessary to pursue the Fund's restitution and subrogation rights under Rule 10-109.

(c) In the event a lawyer whose conduct resulted in the payment of a claim files a petition for reinstatement to the practice of law, the Board shall release all information pertaining to the claim to the Board to Determine Fitness of Bar Applicants as may be pertinent to the reinstatement proceeding.

(d) Any disciplinary information obtained by the Board or a Trustee during the investigation of a claim is confidential to the same extent as required by Bar Rule 4-221 (d).

Rule 10-112. Repeal of Resolution.

Any Resolution of the State Bar of Georgia currently in force and covering the subject matter of these Rules 10-101 through 10-112 shall be repealed upon adoption of these Rules by the Supreme Court of Georgia.

Claim No.: _____
Date Filed: _____
(For Bar use only)



State Bar of Georgia

CLIENTS' SECURITY FUND

104 Marietta Street
Suite 100
Atlanta, Georgia 30303
(404) 527-8720

Confidential Statement Of Claim For Relief

Notice to Applicant: The Clients' Security Fund is a public service of the legal profession in Georgia. In establishing the Clients' Security Fund, the State Bar of Georgia did not create, nor acknowledge any legal responsibility for the acts of individual lawyers in their practice of law. All reimbursements of losses by the Clients' Security Fund shall be a matter of grace in the sole discretion of the Trustees administering the Fund and not as a matter of right.

Instructions: Answer each question in this application carefully. If the space provided is inadequate, please attach additional pages. Please submit all evidence that helps to prove your loss, such as cancelled checks, receipts, letters, retainer contracts, closing statements, pleadings, etc.

Mail the completed application to: The Clients' Security Fund, Office of the General Counsel, 104 Marietta Street, Suite 100, Atlanta, Georgia 30303.

1. Name and Address of Applicant: () Mr. () Mrs. () Miss () Ms.

Phone Number(s): (cell)_____ (home)_____ (business)_____

E-Mail Address: _____

Occupation and Employer: _____

2. Please give the name, address, and telephone number of the lawyer you believe has dishonestly taken your money or property:

3. What legal services did you ask this lawyer to perform for you?

4. How much did you pay the lawyer for his or her services? _____
(Please attach receipts, cancelled checks, or other evidence of payment.)
Was this to be the entire fee? () Yes () No
If "No," please state the entire fee quoted by the lawyer. _____

5. Was your agreement with the lawyer in writing? () Yes () No
If "Yes," please attach a copy of the agreement.

6. Please state the amount of your loss: _____
Did your loss involve: money () securities () other property()? *(Please specify:)*

7. When did the loss of your money or property occur? Please specify the date or dates.

8. How did the lawyer cause your loss:

9. If you are making a claim for a refund of fees, please describe in detail the number of times you met with the lawyer, the matters discussed at those meetings, and the number of court appearances the lawyer made on your behalf. Also, please provide copies of any documents the lawyer prepared on your behalf, including court pleadings and correspondence. Please attach additional pages if necessary.

10. Please describe the steps you have taken to recover your loss from the lawyer or from any other source. For example, telephone calls, demand letters, lawsuits. If suit was filed against the lawyer, please attach copies of the pleadings and describe the current status of the suit.

11. Have you reported this incident to another agency such as:

- The District Attorney's office Your local Bar Association
 The police The State Bar of Georgia.
 Other (*Please specify*) _____

What is the status/disposition of that complaint? Was any action taken? Please attach a copy of any related documents.

12. Have you received any reimbursement of any kind for your loss? (For example, insurance, a surety agreement, or a fidelity bond)

13. To the best of your knowledge does any insurance, surety agreement or fidelity bond exist that might reimburse your loss in the future?

14. How did you learn about the Clients' Security Fund?

15. Are there any other important facts that the Trustees of the Clients' Security Fund should consider while evaluating your claim?

16. What is the name, address, and telephone number of the lawyer who currently represents you?

Limitations and Agreements

If the Fund reimburses you for your loss, you must agree to cooperate with the Fund in the collection of the loss, including letting the Fund sue, in your name, the lawyer who caused your loss for the amount of that reimbursement.

I agree that in the event any reimbursement is made to me, the Clients' Security Fund shall be subrogated in that amount and may bring any action it deems advisable in my name or in the name of the State Bar of Georgia. I agree to execute a written subrogation agreement to this effect if reimbursement is made to me. I agree to cooperate with the Clients' Security Fund regarding this claim and any civil actions which may be brought in the name of the Board pursuant to a subrogation and assignment clause.

I agree and understand that by filing this application the Trustee's of the Client's Security Fund will initiate an investigation of this claim and within their sole discretion, the Trustees may award all, part, or none of the loss claimed by me.

I (We) verify and affirm, under penalty of perjury, that the information provided in this statement of facts is true and that I (We) agree to be bound by the above listed limitations and agreements.

Date

Signature of Claimant

Date

Signature of Claimant

Revised April 2022